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from their undertaking even by a felonious stealing of the money, without any fault or negligence on the part of the principal.

The provisions of the statutes of Minnesota upon this subject seem to be substantially identical with Code of Virginia, sections 177 and 814, with the exception that the former was amended in 1896 by the addition of the words: "In any such bond the liability of the surety or sureties may be limited to such sums as they may respectively require"—which last word, we presume, means "stipulate."

See 2 Va. Law Register, 457.

TRUSTS—INCREASE OF FUND—INCOME.—Increase and income are not synonymous terms. Until detached or separated from the shares whose value it enhances, increase forms part of that value, and therefore part of the shares; and if it be part of the shares themselves, then whilst it may be profit it is in no sense income. When a testator bequeathed \$10,000 to trustees, to pay his daughter "the dividends and income thereof," with remainder over after her death, and by a fortunate investment, this fund attained a market value of over \$150,000, apart from some \$30,000 theretofore paid to the c. q. t. by way of dividends and interest, *Held*, That the increase was not income, but constitutes a part of the corpus of the fund. *Smith v. Hooper* (Md.), 51 Atl. 844. Citing *In re Armitage* 3 Ch. 337 (Court of Appeal, England, 1893); *VanDoren v. Olden*, 19 N. J. Eq 176, 97 Am. Dec. 650; *Thomas v. Gregg*, 78 Md., 555, 44 Am. St. Rep. 310.

Per McSherry, C. J. :

"If, by the terms of Mr. Hooper's will, the life tenant had been given, not only the dividends and income, but also the profits arising from an investment of the trust fund, a different question might and probably would have been presented. The case of *In re Park's Estate* 173 Pa., 190, 33 Atl. 884, illustrates this. In that case the main question was what things, under the facts, properly constituted 'income and profits,' and what 'principal.' The excess over and above the original trust fund, realized by the trustees on the sale of mortgaged premises previously bought in to protect the fund, was decreed to belong to the *cestui que trust*, because that excess constituted 'income and profits,' and the *cestui que trust* was entitled to both income and profits, within 'the purpose and intent' of the testator's will."

Accordant: *Whittingham v. Schofield's Trustee* (Ky.), 67 S. W. 846.

CONSTITUTIONAL LAW—DUE PROCESS—DISABLED ANIMALS.—A statute relating to cruelty to animals provided that whenever an officer should take an apparently disabled animal into his possession, he should call upon three disinterested citizens, who, under oath, should examine the animal, and if they find it disabled for use, the officer shall at once cause it to be killed. *Held*, That as the statute did not provide for notice to the owner of the animal and an opportunity to be heard, it called for an unauthorized exercise of the police power and the depriving of a person of property without due process of law, and is therefore unconstitutional. *Carter v. Colby* (N. H.), 5 Atl. 904.

Per Blodgett, C. J. :

"Whether the horse was liable to confiscation without compensation to the